

STRAITS SETTLEMENTS LAW REPORTS.

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[COURT OF CRIMINAL APPEAL]

REX v. LEC DE CRUZ.

[Criminal Appeal No. 2 of 1934]

Appeal against sentence—Grounds on which the Court will interfere with a sentence.

The Court of Criminal Appeal will not interfere with the decision of the Court below on the question of sentence, unless the Judge has proceeded on wrong principles or given undue weight to some of the evidence.

Appeal against sentence.

The accused was tried at the Malacca Assizes on October 1st, and 2nd 1934 and was convicted on three charges of the offence of falsifying accounts under Section 477A of the Penal Code, and was sentenced to 3 years Rigorous Imprisonment on each charge, the sentences to run concurrently. He appealed from these sentences on the following grounds namely:—"The sentence is excessive in view of the fact that I am only 24 years of age, with no previous conviction, and that the amount involved is not more than \$50."

The Appeal came on for hearing on the 2nd November, 1934 before the Chief Justice, Sir Walter Huggard, Prichard and Mills, JJ.

E. A. Stevens for Appellant.

Adrian Clark, D.P.P., for Crown. The facts justify a severe sentence as they shew ingenious frauds, practised over a period of three months, by an employee paid for the very purpose of guarding his employer against fraud. A decision as to sentence is an exercise of a judicial discretion. The Court of Criminal Appeal in England, soon after it came into existence, laid down the principles to be applied in an appeal against sentence, in the cases of *R. v. Sidlow*, (1908) 1 C.A.R., 29, and *R. v. Nuttall*, (1908) 1 C.A.R. 180.

The Judgment of the Court was delivered by The Honourable Sir Walter Huggard, Chief Justice in a short oral Judgment.

HUGGARD, C.J.—"In determining appeals this Court will ordinarily apply principles which have been laid down by the Court of Criminal Appeal in England. In regard to appeals against sentence it has been laid down that the Court will not interfere with the sentence, unless the Judge has proceeded on wrong principles or given undue weight to some of the evidence.

"There is no indication in this case that the Judge did either of these things. Therefore although it is possible that we, had we been sitting as individual judges, might have been inclined to impose a lesser sentence, we feel we are

bound by the decisions laid down, and this appeal must therefore be dismissed."

Appeal dismissed.

Solicitors for the Appellant—*Allen and Gledhill.*

[APPELLATE CRIMINAL JURISDICTION]

TERRELL, J.

October 29, 1934.

REX v. KHOO BOO LONE

[SINGAPORE MAGISTRATES APPEAL No. 28 of 1934]

Ordinance No. 99. (Medical Registration) S. 20—Unqualified native practitioner.

The Appellant was a Burmese herbalist practising in Singapore who described himself in the English version of his advertisements as "Burmese Specialist" "Dr. Khoo Boo Lone" and in the Chinese version as "Ee Seng" (Yee Sang) (doctor).

Held that the Appellant had used a title implying a qualification to practise medicine and that he had done so purposely and therefore wilfully and falsely and that he had been properly convicted under S. 20 of Ordinance No. 99 (Medical Registration).

Magistrates Appeal.

The Appellant was charged before the Magistrate with an offence under S. 20 of Ordinance No. 99 (Medical Registration). He was convicted and sentenced to a fine of \$20. or 3 weeks imprisonment in default. From this conviction he appealed.

Hoalim for Appellant.—S. 21 of Ordinance 99 provided that nothing in the Ordinance shall be construed to prohibit or prevent the practice of native systems of therapeutics according to Indian, Chinese, or other Asiatic methods. Accused has always described himself as Burmese Specialist; and in Chinese as "Ee Seng"—i.e. doctor, but that does not mean that he has a diploma in western medicine. No member of the public has been called to give evidence of deception. If accused used the title of "doctor" under a supposed though mistaken idea that he has a right to do so he was not doing so wilfully and falsely and was guilty of no offence.

Bassett, (D.P.P.) for Crown.—The sign-board outside the accused's premises reads "Burmese Specialist" "Dr. Khoo Boo Lone." The word "doctor" may only be used by those who have recognised qualifications. The accused used that word intentionally and therefore wilfully and falsely within the meaning of the Section.

Evidence was given that "Ee Seng" in Chinese means a doctor as distinguished from "Sin Say" which means a native "quack doctor" or herbalist.

Combined effect of Ss. 20 and 21 of Ordinance 99 is that appellant is allowed to practise native systems of therapeutics but not to use a title implying that he has a qualification as defined in S. 16.

Hoalim in reply.

Cur. Ad. Vult.